UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE SKABARDONIS,

Plaintiff,

- vs -

MIDLAND CREDIT MANAGEMENT, INC.,

Defendant.

Docket No. 1:17-cv-01497-VSB-

ANSWER AND AFFIRMATIVE DEFENSES

Defendant Midland Credit Management, Inc. ("MCM" or "Defendant"), by and through its undersigned counsel, in answer to Plaintiff's Complaint And Demand For Jury Trial ("Complaint"), states as follows:

I. INTRODUCTION

1. Denies the allegations contained in paragraph 1 of the Complaint.

2. Admits only that the Complaint purports to allege a violation of the FDCPA, but denies that Defendant violated the FDCPA. To the extent that the allegations contained in paragraph 2 of the Complaint infer the existence of facts supporting a claim for relief against Defendant, they are denied.

3. The allegations contained in paragraph 3 of the Complaint purport to state conclusions of law which do not require a response. To the extent these allegations infer the existence of facts supporting a claim for relief against Defendant, they are denied.

II. JURISDICTION AND VENUE

4. The allegations contained in paragraph 4 of the Complaint purport to state conclusions of law which do not require a response. To the extent these allegations infer the existence of facts supporting a claim for relief against Defendant, they are denied.

III. PARTIES

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint with respect to Plaintiff's residence. The remaining allegations purport to state conclusions of law which do not require a response. To the extent these allegations infer the existence of facts supporting a claim for relief against Defendant, they are denied.

6. Denies the allegations contained in paragraph 6 of the Complaint as stated, and admits only that it is a foreign corporation authorized to do business in New York, and, at times, engages in the collection of unpaid, outstanding account balances using mail and telephone.

7. The allegations contained in paragraph 7 of the Complaint purport to state conclusions of law which do not require a response. To the extent these allegations infer the existence of facts supporting a claim for relief against Defendant, they are denied.

IV. FACTUAL ALLEGATIONS

8. Repeats, realleges and incorporates by reference its responses set forth in response to paragraphs 1 through 7 of the Complaint, as if fully set forth herein, as and for its response to paragraph 8 of the Complaint.

9. Denies the allegations contained in paragraph 9 of the Complaint. Defendant affirmatively states that it made no telephone calls to Plaintiff's telephone number within one year immediately preceding this Complaint.

10. The allegations contained in paragraph 10 of the Complaint purport to state conclusions of law which do not require a response. To the extent these allegations infer the existence of facts supporting a claim for relief against Defendant, they are denied.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint with respect to the undefined "debt".

Defendant affirmatively states that while it received multiple letters from Plaintiff concerning multiple debts, it made no telephone calls to Plaintiff's telephone number within one year immediately preceding this Complaint.

12. Denies the allegations contained in paragraph 12 of the Complaint. Defendant affirmatively states that it made no telephone calls to Plaintiff's telephone number within one year immediately preceding this Complaint.

13. Denies the allegations contained in paragraph 13 of the Complaint. Defendant affirmatively states that it made no telephone calls to Plaintiff's telephone number within one year immediately preceding this Complaint.

14. Denies the allegations contained in paragraph 14 of the Complaint. Defendant affirmatively states that it made no telephone calls to Plaintiff's telephone number within one year immediately preceding this Complaint.

15. Denies the allegations contained in paragraph 15 of the Complaint. Defendant affirmatively states that it made no telephone calls to Plaintiff's telephone number within one year immediately preceding this Complaint.

16. Denies the allegations contained in paragraph 16 of the Complaint.

V. CAUSE OF ACTION UNDER THE FAIR DEBT COLLECTION PRACTICES ACT

17. Repeats, realleges and incorporates by reference its responses set forth in response to paragraphs 1 through 16 of the Complaint, as if fully set forth herein, as and for its response to paragraph 17 of the Complaint.

18. Denies the allegations contained in paragraph 18 of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part because they fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Any violation of the Fair Debt Collection Practices Act ("FDCPA"), which Defendant denies occurred, was not intentional and would have resulted from a *bona fide* error notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

THIRD AFFIRMATIVE DEFENSE

Plaintiff lacks Article III standing.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitation or other legal or contractual limitations periods applicable to Plaintiff's claims.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole, or in part, by the equitable theories of estoppel, waiver, ratification, laches and/or unclean hands.

SIXTH AFFIRMATIVE DEFENSE

Any harm suffered by Plaintiff was legally and proximately caused by persons, individuals, corporations or entities beyond the control or supervision of Defendant, or for whom Defendant is not responsible or liable.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's counsel knew or should have known that plaintiff's claim against Defendant is frivolous and without basis in law or fact, and therefore this action was brought in bad faith and for the purpose of harassment, and Defendant is entitled to an award of its costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3).

EIGHTH AFFIRMATIVE DEFENSE

Defendant reserves the right to assert additional, separate and alternative affirmative defenses as discovery warrants.

WHEREFORE, Defendant Midland Credit Management, Inc. respectfully requests that the Court enter an order and judgment of this Court in its favor and against Plaintiff as follows:

1. Dismissing all causes of action against Defendant with prejudice and on the merits; and
2. Awarding Defendant attorneys' fees and such other and further relief as the Court deems just and equitable.

Dated: New York, New York
June 12, 2017

HINSHAW & CULBERTSON LLP
Attorneys for Defendant
Midland Credit Management, Inc.

By: *s/Dana B. Briganti*
Dana B. Briganti, Esq.
800 Third Avenue, 13th Floor
New York, New York 10022
Tel: (212) 471-6200